Banc Ceannais na hÉireann
Central Bank of Ireland
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ENFORCEMENT ACTION

CENTRAL BANK OF IRELAND

and

KEYSTONE INSURANCE LIMITED

Keystone Insurance Limited reprimanded and fined €41,385 by the Central Bank of Ireland for breaches of the Consumer Protection Code 2012 (the "Code") resulting in overcharging customers and providing unclear communication on fees to customers

On 26 January 2021, the Central Bank of Ireland (the "**Central Bank**") reprimanded and fined Keystone Insurance Limited ("**Keystone" or "the Firm"**) €41,385 pursuant to its Administrative Sanctions Procedure ("**ASP**") in respect of six breaches of the Code from April 2012 to December 2017. Keystone has admitted to all six breaches.

The Central Bank's investigation found that Keystone failed to comply with the Code in respect of having adequate systems and controls to allow it to correctly apply fees in accordance with its Terms of Business, and communicate clearly on fees to its customers in order for them to make informed financial decisions. Over a five year period, 62 customers were identified by the Central Bank investigation as having been overcharged, and 190 customers received unclear communications.

The breaches in this matter were not self-reported by Keystone, and would have continued if it had not been for the Central Bank's identification of the breaches as part of an inspection in June 2017.

Keystone's failures included:

- Overcharging: 62 customers were overcharged a total of €9,964.36 over a five year period. These customers have been fully reimbursed by Keystone.

- Communications: Out of 265 invoices reviewed, the Central Bank found that communication of applicable fees in 190 cases was unclear, in that the firm failed to bring fees to the attention of the customers. This resulted in the customers not being fully aware of the fees being charged.

During the course of the investigation, Keystone provided the Central Bank with incomplete and unclear responses to requests for information which led to delays in the investigation. The Central Bank considered this to be an aggravating factor in the case.

The Central Bank determined the appropriate fine to be €59,121, which was reduced by 30% to €41,385 in accordance with the settlement discount scheme provided for in the Central Bank's ASP[1].

The Central Bank's Director of Enforcement and Anti-Money Laundering, Seána Cunningham, said:

"*The purchase of everyday financial products by consumers can be a complex and daunting process. Many consumers rely on professionals, in this case an insurance intermediary, to assist them. Insurance intermediaries are required to recommend the most suitable product(s) to meet their customers' needs and to always act in their best interests.*

The Central Bank expects that all regulated firms should have adequate processes, systems and controls in place to ensure compliance with the Code, ensure staff are trained on the Code's provisions, regularly check that they are in compliance with the Code and ensure that any failures that may occur are identified and rectified early. In this case, as a result of not having the adequate processes, systems and controls, Keystone overcharged 62 customers and 190 of their customers were sent unclear communications on what fees they were being charged.

[1] The Central Bank's 'Outline of the Administrative Sanctions Procedure' provides for an early settlement discount of up to 30% in order to promote early resolution of matters, which in turn leads to better utilisation of the resources of the Central Bank. All fines collected by the Central Bank are returned to the Exchequer.

In addition, the Central Bank expects that all firms engage proactively with enforcement investigations and provide accurate and comprehensive information in response to Central Bank requests. This is the minimum level of cooperation that the Central Bank expects during the course of an investigation. Failure to do so, as in this case, will be reflected in the level of fine imposed."

Background

Keystone is a retail intermediary that operates in the commercial insurance market and is regulated under the European Union (Insurance Distribution) Regulations 2018. The Central Bank's investigation stemmed from an onsite inspection of the Firm in June 2017.

A risk mitigation programme was issued to Keystone in November 2017, requiring Keystone to refund all customers who had been identified as overcharged, and amendments to Keystone's communications to customers on fees to make them clearer and code compliant. Keystone complied with the requirements of the risk mitigation programme within the deadlines specified.

The Breaches

Further details on the breaches are set out below.

(i) Overcharging

The investigation found that Keystone overcharged customers fees for placing insurance, processing mid-term adjustments and processing cancellations of insurance policies, in excess of the maximum fees allowed to be charged under Keystone's Terms of Business. This overcharging was uncovered as a result of an inspection carried out by the Central Bank in June 2017. The investigation found 62 customers were overcharged in total the sum of €9,964.36.

Keystone has admitted breaching General Principles 2.1 and 2.2 of the Code in that it failed to treat customers fairly and professionally, and with due skill care and diligence, when charging those customers fees for Keystone's services.

(ii) Provision of unclear communications to customers

The investigation found that Keystone only set out key information on applicable fees in small print, at the foot of invoices and in words rather than numbers. The Code expressly prohibits the presentation of key information in a way that distorts, diminishes or obscures that information.

The Code also states that communication of key information should be in a font size that is appropriate. From a review of documentation issued to 265 consumers between 1 January 2013 and 31 December 2017, 190 consumers received unclear communications which were not compliant with the Code.

Keystone admitted breaching General Principle 2.6, and General Requirements 4.1 and 4.4 of the Code, in that it:

- Failed to disclose information to its customers in a way that sought to inform them;
- Failed to bring key information – being fees – to the attention of the customer; and
- Communicated fees in font size that was not appropriate to the type of information being communicated.

(iii) Failure to have adequate systems and controls

The investigation found that Keystone did not have adequate systems and controls in place to enable them to meet their regulatory obligations on communications and to ensure that that overcharging did not occur and that, if it did occur, the issue was found and rectified quickly.

Keystone admitted breaching General Principle 2.4 of the Code, in that it did not employ the necessary resources, control checks or staff training that were necessary for compliance with the Code.

PENALTY DECISION FACTORS

In deciding the appropriate penalty to impose, the Central Bank considered the ASP Sanctions Guidance issued in November 2019. The following particular factors are highlighted in this case:

Nature, seriousness and impact of the contraventions

- 62 customers suffered detriment through overcharging;
- These matters were not self-reported by the Firm and the fact that the issues were only discovered during a Central Bank inspection;
- The breaches extended for over five years; and
- The need to impose a proportionate level of penalty.

AGGRAVATING FACTOR

Keystone failed to meet the Central Bank’s expectations of adequate cooperation in the context of the investigation by providing imprecise and ambiguous responses to a number of statutory requests for information, necessitating challenge by the Central Bank, which wasted investigatory resources and caused delay in the Central Bank’s ability to progress the investigation.

The Central Bank confirms that the investigation into the Firm is now closed.

NOTES

1. This is the Central Bank's 140th settlement since 2006 under its Administrative Sanctions Procedure, bringing the total fines imposed by the Central Bank to over €124 million. This settlement also marks the 33rd outcome in respect of the Central Bank's consumer protection focused codes of conduct, including the 2006 and 2012 Consumer Protection Codes.

2. The fine imposed by the Central Bank was imposed under Section 33AQ of the Central Bank Act 1942. The maximum penalty under Section 33AQ is €10,000,000, or an amount equal to 10% of the annual turnover of a regulated financial service provider, whichever is the greater.

3. Funds collected from penalties are included in the Central Bank's Surplus Income, which is payable directly to the Exchequer, following approval of the Statement of Accounts. The penalties are not included in general Central Bank revenue.

4. The fine reflects the application of an early settlement discount of 30%, as per the discount scheme set out in the Central Bank's **Outline of the Administrative Sanctions Procedure 2018** which is here: link.

5. A copy of the **ASP Sanctions Guidance November 2019** is available here: link This guidance provides further information on the application of the sanctioning factors set out in the **Outline of the Administrative Sanctions Procedure** (see link above) and the **Inquiry Guidelines** prescribed pursuant to section 33BD of the Central Bank Act 1942 (a copy of which is here: link. These documents should be read together.